

97CV00861-EHN-MO

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GILBERT ROMAN,

97 CV 861

Petitioner,

MEMORANDUM

- against -

AND
ORDER

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.
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GILBERT ROMAN
No. 95R7448
P.O. Box 576
Hudson, New York 12534-0576
petitioner pro se.

CHARLES J. HYNES
District Attorney, Kings County
(Todd F. Davis, of counsel)
400 Municipal Building
210 Joralemon Street
Brooklyn, New York 11201
for respondent.

NICKERSON, District Judge:

Petitioner pro se brought this proceeding for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Respondent now moves to dismiss the petition saying that petitioner failed to exhaust his state remedies.

Petitioner also made several motions related to his case.

On August 14, 1995 petitioner pleaded guilty in Supreme Court, Kings County, to one count of criminal sale of a controlled substance in the second degree. On September 12, 1996 the court sentenced petitioner to a prison term of six years to life.

Petitioner did not appeal his sentence. On August 21, 1996 petitioner moved in the Supreme Court, Kings County, for a reduction in his sentence arguing that he was the victim of mind control by the Central Intelligence Agency, which was using the "8x satellite program" for the purpose of coercion, duress, mental torture, and entrapment, in violation of his privacy rights. While the decision is not in the record, both parties agree that the court denied the motion on November 4, 1996.

The record does contain a decision by the Supreme Court, Kings County, dated April 11, 1997, which denied petitioner's motion brought under New York Criminal

Procedure Law § 440.10. The claims apparently raised in that motion were: (1) the mind control claim, and (2) a claim that petitioner was denied the right to an attorney during questioning by police officers. On October 22, 1997 the Appellate Division denied petitioner's application for leave to appeal. This petition followed.

In this court petitioner raises the following claims: (1) that he was misled by a prosecutor, (2) that he was denied counsel during questioning, (3) that the United States Central Intelligence Agency was controlling his mind via satellite, and (4) that he was entrapped by a government informant.

Respondent's sole argument is that petitioner failed to exhaust his state court remedies. The record at this point is incomplete. The court will direct respondent to provide a copy of the November 4, 1996 decision of the state court and all other documents related to whether petitioner exhausted his state remedies.

Petitioner also filed various motions in this case. Petitioner filed a discovery motion on August 25, 1997 requesting that the District Attorney's Office supply information about what happened during his case and arrest, and that various agencies supply statements to prove the existence of satellites that read the pulses and patterns of the human brain. On November 15, 1997 petitioner filed another discovery motion requesting that Channel 11 release transcripts of a broadcast regarding a new technology that allows a television remote control device to be implanted in the human head. On January 9, 1998 petitioner filed a motion requesting an advancement of an evidentiary hearing. Petitioner's motions are all denied.

Respondent is directed to produce within sixty days from the date of this order the state court record including copies of the guilty plea, the sentencing transcripts, and all other records related to the exhaustion issue.

So ordered.

Dated: Brooklyn, New York
August 1, 1998

Eugene H. Nickerson
Eugene H. Nickerson, U.S.D.J.